

MICHIGAN ASSOCIATION OF COUNTY TREASURERS

House Bill No. 4819 (sale of tax reverted property)

County treasurers are responsible, among other duties, for the collection of unpaid delinquent real property taxes. Through this activity and the advancement of funds to local tax collecting units from delinquent tax revolving funds, county treasurers help assure that whenever possible, cities, townships, school districts, counties, libraries, the State of Michigan, and other taxing jurisdictions collect 100% of taxes owed in a timely manner.

In 70 counties, county treasurers have opted to function as the foreclosing governmental unit in the delinquent tax collection process. As the foreclosing governmental unit, county treasurers identify persons with a legal interest in tax-delinquent property, notify the owners, and then, if necessary, initiate foreclosure proceedings in court and sell the foreclosed property.

Under current law, between July and November of each year, a foreclosing governmental unit must hold at least two sales of tax-reverted property. Up until the final sale, property is offered at a minimum bid price, which includes all delinquent taxes, interest, penalties and fees due on the property and sale administration expenses. At the final sale, often referred to as the "scavenger sale," a minimum bid is not required and the foreclosing governmental unit may set a reasonable opening bid to recover sale costs.

House Bill 4819 would:

- Allow a foreclosing governmental unit, at its option, to conduct a single sale of tax reverted property each year—a minimum bid sale—and eliminate a mandated second sale. The bill does not restrict additional sales from being held.

The Michigan Association of County Treasures supports House Bill 4819 because:

- The bill would provide each foreclosing governmental unit with greater flexibility in conducting a sale process that works best for each county. A single sale may work best in one county, but in another five sales may be the better approach.
- The bill gives foreclosing governmental units a new tool to combat speculators at scavenger sales, who often fail to maintain or pay taxes on purchased property.
- In counties where a land bank fast track authority has been established, the bill will enhance the ability to coordinate activities with the foreclosing governmental unit, including the disposition and return of property to productive use.
- A more efficient sale process offers the prospect of increased revenue collection and reduced chargebacks to local tax collecting units.

In addition to the changes to the tax sale process already included in House Bill 4819, based upon their experiences acting as foreclosing governmental units, county treasurers also would recommend the following additional amendments to Section 78m of The General Property Tax Act:

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(1) **Explicitly Authorize Transfer of Unsold Property to a County Land Bank Fast Track Authority**

Under current law (Sec. 78m(7)), if the foreclosing governmental unit is a county, when the property is not sold or transferred to a city, village, or township, the foreclosing governmental unit "shall retain possession of that property."

If the state is the foreclosing government unit, the property is automatically transferred to the Michigan Land Bank Fast Track Authority.

A number of counties have established county land bank fast track authorities and would prefer to see Sec. 78m(7) clarified to provide explicit authority for the transfer of property to a land bank:

1. Amend page 6, line 10, after "124.765." by inserting "IF THE FORECLOSING GOVERNMENTAL UNIT RETAINS POSSESSION OF THE PROPERTY AND THE FORECLOSING GOVERNMENTAL UNIT IS NOT THIS STATE, THE FORECLOSING GOVERNMENTAL UNIT MAY TRANSFER THE PROPERTY TO A LAND BANK FAST TRACK AUTHORITY ESTABLISHED BY THE COUNTY IN WHICH THE PROPERTY IS LOCATED UNDER THE LAND BANK FAST TRACK ACT, 2003 PA 258, MCL 124.751 TO 124.774. ".

(2) **Allow Local Units to Purchase Property Before Land Sales only for "Public Use"**

Currently, the State can purchase property before a land sale for any purpose, but it must pay the greater of the minimum bid or the fair market value of the property.

A local government can purchase property before a land sale for a "public purpose" by paying only the minimum bid. Originally this provision was intended to provide local governments with the ability to obtain tax-reverted property for local government purposes such as parkland, government buildings, etc. Unfortunately, a recent ruling of the Michigan Court of Appeals¹ has adopted a much broader reading of the term "public purpose" that is expansive enough to include holding property for future economic development.

From county treasurers perspective, the unfortunate and unintended effect of this decision has been that local governments are opting to purchase more properties before the first sale. This reduces revenue generated by the sale needed to assure 100% payment of taxes to all tax collecting units. It also results in property more under public ownership, generating no property tax revenue. To remedy these issues, county treasurers recommend restoring a more narrow definition by changing "public purpose" to "public use":

¹ *City of Bay City v Bay County Treasurer*, Docket No. 294556 (April 5, 2011).

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1. Amend page 1, line 10, after "public" by striking out "purpose" and inserting **"USE"**.
2. Amend page 2, line 5, after "purchase" by inserting **"FOR A PUBLIC USE"**.
3. Amend page 2, line 26, after "(2)." by inserting **"AS USED IN THIS SUBSECTION, "PUBLIC USE" DOES NOT INCLUDE THE PURCHASE OF PROPERTY FOR TRANSFER TO A PRIVATE ENTITY FOR THE PURPOSE OF ECONOMIC DEVELOPMENT OR ENHANCEMENT OF TAX REVENUES."**

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